
A BILL FOR AN ACT

RELATING TO INCOME TAX CREDITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The effects of the September 11, 2001,
2 terrorist attacks upon the United States had a devastating
3 effect on Hawaii's economy. In October of 2001, the legislature
4 met in special session to approve emergency measures in response
5 to the attacks. One such response was the enactment of Act 10,
6 Third Special Session 2001, which made more generous the then
7 existing hotel construction and remodeling tax credit. Act 10
8 raised the percentage of the tax credit from four to ten per
9 cent for costs incurred prior to July 1, 2003, to assist the
10 tourism industry in its efforts to attract more visitors to
11 Hawaii.

12 Act 10 provided the stimulus needed to boost Hawaii's
13 workforce and economy during difficult economic times.

14 Hawaii is again in an economic recession. Stimulus and
15 other initiatives are needed to counteract the negative impact
16 that the world's economy has had on our State. Like the
17 experience with Act 10, the legislature finds that a new and



1 extended tax credit is an excellent means to boost Hawaii's
2 tourism, retail, and construction industries.

3 The purpose of this Act is to provide a tax credit for the
4 actual construction and renovation costs for qualified hotel
5 facilities and shopping center facilities in the State. The
6 implementation of this legislation is necessary and warranted.

7 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§235. Hotel and shopping center construction and
11 remodeling tax credit. (a) There shall be allowed to each
12 taxpayer subject to the taxes imposed by this chapter and
13 chapter 237D, an income tax credit, which shall be deductible
14 from the taxpayer's net income tax liability, if any, imposed by
15 this chapter for the taxable year in which the credit is
16 properly claimed.

17 The amount of the credit shall be ten per cent of the
18 construction or renovation costs incurred during the taxable
19 year for each qualified hotel facility or qualified shopping
20 center facility located in Hawaii, and shall not include the
21 construction or renovation costs for which another credit was
22 claimed under this chapter for the taxable year; provided that



1 the construction or renovation costs are incurred before
2 December 31, 2015.

3 In the case of a partnership, S corporation, estate, trust,
4 association of owners of a qualified hotel facility, time share
5 owners association, or any developer of a time share project, of
6 a qualified hotel facility or qualified shopping center
7 facility, the tax credit allowable is for construction or
8 renovation costs incurred by the entity for the taxable year.
9 The cost upon which the tax credit is computed shall be
10 determined at the entity level. Distribution and share of
11 credit shall be determined pursuant to section 235-110.7(a).

12 If a deduction is taken under section 179 (with respect to
13 election to expense depreciable business assets) of the Internal
14 Revenue Code, no tax credit shall be allowed for that portion of
15 the construction or renovation cost for which the deduction is
16 taken.

17 The basis of eligible property for depreciation or
18 accelerated cost recovery system purposes for state income taxes
19 shall be reduced by the amount of credit allowable and claimed.
20 In the alternative, the taxpayer shall treat the amount of the
21 credit allowable and claimed as a taxable income item for the



1 taxable year in which it is properly recognized under the method
2 of accounting used to compute taxable income.

3 (b) The credit allowed under this section shall be claimed
4 against the net income tax liability for the taxable year.

5 (c) If the tax credit under this section exceeds the
6 taxpayer's income tax liability, the excess of credit over
7 liability shall be refunded to the taxpayer; provided that no
8 refund on account of the tax credit allowed by this section
9 shall be made for amounts less than \$1. All claims for a tax
10 credit under this section shall be filed on or before the end of
11 the twelfth month following the close of the taxable year for
12 which the credit may be claimed. Failure to comply with the
13 foregoing provision shall constitute a waiver of the right to
14 claim the credit.

15 (d) The director of taxation shall prepare any forms that
16 may be necessary to claim a credit under this section. The
17 director may also require the taxpayer to furnish information to
18 ascertain the validity of the claim for credit made under this
19 section and may adopt rules necessary to effectuate the purposes
20 of this section pursuant to chapter 91.

21 (e) The tax credit allowed under this section shall be
22 available for taxable years beginning after December 31, 2009,



1 and shall not be available for taxable years beginning after
2 December 31, 2015.

3 (f) To qualify for the income tax credit, the taxpayer
4 shall be in compliance with all applicable federal, state, and
5 county statutes, rules, and regulations.

6 (g) As used in this section:

7 "Construction or renovation cost" means any costs incurred
8 after December 31, 2009 and before December 31, 2015, for plans,
9 design, construction, and equipment related to new construction,
10 alterations, or modifications to a qualified hotel facility or
11 qualified shopping center facility.

12 "Net income tax liability" means income tax liability
13 reduced by all other credits allowed under this chapter.

14 "Qualified hotel facility" means:

15 (1) A hotel/hotel-condo, a hotel, hotel-condominium, or
16 condominium-hotel as those terms are defined in
17 section 486K-1;

18 (2) A time share facility or project; or

19 (3) Commercial buildings and facilities located within a
20 qualified resort area.

21 "Qualified resort area" means an area designated for hotel
22 use, resort use, or transient vacation rentals, pursuant to



1 county authority under section 46-4, or where the county, by its
2 legislative process, designates hotel, transient vacation
3 rental, or resort use.

4 "Qualified shopping center facility" means a complex of
5 retail shops, restaurants, theaters and amusement centers,
6 offices, and other permitted uses in a commercial zone grouped
7 together and having a common parking area, comprising of a total
8 area of not less than _____ square feet.

9 "Taxpayer" means a taxpayer under this chapter, and
10 includes:

11 (1) Association of apartment owners; or

12 (2) Time share owners association.

13 (h) No taxpayer that claims a credit under this section
14 shall claim a credit under chapter 235D."

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

17

INTRODUCED BY:

Calvin K. Boy

JAN 15 2010



Report Title:

Tax Credit; Hotel and Shopping Center Construction

Description:

Provided a tax credit for cost of construction and renovation of qualified hotel facilities and qualified shopping center facilities.

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